

Assembly Bill No. 248

Passed the Assembly August 31, 2009

Chief Clerk of the Assembly

Passed the Senate August 27, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 71205 of, and to amend the heading of Division 36 (commencing with Section 71200) of, the Public Resources Code, relating to ballast water management.

LEGISLATIVE COUNSEL'S DIGEST

AB 248, Bonnie Lowenthal. Public resources: ballast water management.

(1) The Marine Invasive Species Act generally applies to all vessels carrying or capable of carrying ballast water into the coastal waters of the state after operating outside of the coastal waters of the state and to all ballast water and associated sediments taken on a vessel. The act requires the master, owner, operator, agent, or person in charge of a vessel that visits a California port or place of call to maintain specified information and records related to the vessel and ballast water management, and to make available or provide the information to the State Lands Commission. A person who, knowingly and with intent to deceive, falsifies a ballast water control report form required by the act is guilty of a misdemeanor.

This bill would require the master, owner, operator, agent, or person in charge of a vessel carrying or capable of carrying ballast water that has a ballast water treatment system installed on board the vessel that is used to comply with the act to maintain on board the vessel, in written or electronic form, specified records that include material data safety sheets for certain chemicals, specified technical guides, publications, and manuals, and specified ballast water treatment system performance information. The bill also would require the master, owner, operator, agent, or person in charge of one of those vessels that has discharged ballast in waters of the state to provide to the commission the manufacturer and product name of the ballast water treatment system on board the vessel, the name of the organization that has approved the system, if applicable, the approval or certification number of the system technology, if applicable, the number of tanks and the volume of each tank that is managed using the system and that was discharged in waters of the state, and any additional information required by the commission by rule or regulation. The bill would require the

master, owner, operator, agent, or person in charge of the vessel to provide that information on a form developed by the commission. Because a knowing and intentionally deceitful falsification of a report form required by the bill would be a crime, the bill would impose a state-mandated local program. The bill also would require the master, owner, operator, agent, or person in charge of a vessel subject to the act to maintain records of any additional information required by the commission by rule or regulation.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The heading of Division 36 (commencing with Section 71200) of the Public Resources Code is amended to read:

DIVISION 36. MARINE INVASIVE SPECIES ACT

SEC. 2. Section 71205 of the Public Resources Code is amended to read:

71205. (a) (1) The master, owner, operator, agent, or person in charge of a vessel carrying, or capable of carrying, ballast water, that visits a California port or place, shall provide the information described in subdivision (c) in electronic or written form to the commission upon the vessel's departure from each port or place of call in California.

(2) The information described in subdivision (c) shall be submitted using a form developed by the United States Coast Guard.

(b) If the information submitted in accordance with this section changes, an amended form shall be submitted to the commission upon the vessel's departure from each port or place of call in California.

(c) (1) The master, owner, operator, or person in charge of the vessel shall maintain on board the vessel, in written or electronic form, records that include all of the following information:

(A) Vessel information, including all of the following:

(i) Name.

(ii) International Maritime Organization number or official number if the International Maritime Organization number has not been assigned.

(iii) Vessel type.

(iv) Owner or operator.

(v) Gross tonnage.

(vi) Call sign.

(vii) Port of registry.

(B) Voyage information, including the date and port of arrival, vessel agent, last port and country of call, and next port and country of call.

(C) Ballast water information, including the total ballast water capacity, total volume of ballast water on board, total number of ballast water tanks, capacity of each ballast water tank, and total number of ballast water tanks in ballast, using measurements in metric tons (MT) and cubic meters (m³).

(D) Ballast water management information, including all of the following:

(i) The total number of ballast tanks or holds, the contents of which are to be discharged into the waters of the state or to a reception facility.

(ii) If an alternative ballast water management method is used, the number of tanks that were managed using an alternative method, as well as the type of method used.

(iii) Whether the vessel has a ballast water management plan and International Maritime Organization guidelines on board, and whether the ballast water management plan is used.

(iv) Whether the master, operator, or person in charge of the vessel has claimed a safety exemption pursuant to paragraph (1) of subdivision (b) of Section 71203 for the vessel voyage, and the reason for asserting the applicability of that paragraph.

(E) Information on ballast water tanks, the contents of which are to be discharged into the waters of the state or to a reception facility, including all of the following:

(i) The origin of ballast water, including the date and location of intake, volume, and temperature. If a tank has been exchanged, the identity of the loading port of the ballast water that was discharged during the exchange.

(ii) The date, location, volume, method, thoroughness measured by percentage exchanged if exchange is conducted, and sea height at time of exchange if exchange is conducted, of ballast water exchanged or otherwise managed.

(iii) The expected date, location, volume, and salinity of ballast water to be discharged into the waters of the state or a reception facility.

(F) Discharge of sediment and, if sediment is to be discharged within the state, the location of the facility where the disposal will take place.

(G) Certification of accurate information, that shall include the printed name, title, and signature of the master, owner, operator, person in charge, or responsible officer attesting to the accuracy of the information provided and certifying compliance with the requirements of this division.

(H) Changes to previously submitted information.

(2) The master, owner, operator, or person in charge of a vessel subject to this subdivision shall retain a signed copy of the information described in this subdivision on board the vessel for two years.

(d) The master, owner, operator, or person in charge of a vessel subject to this division shall retain for two years a separate ballast water log outlining ballast water management activities for each ballast water tank on board the vessel and shall make the separate ballast water log available to the commission for inspection and review.

(e) (1) The master, owner, operator, agent, or person in charge of a vessel subject to this division shall provide the information described in subdivision (f) in electronic or written form to the commission annually upon request of the commission. The master, owner, operator, agent, or person in charge of the vessel shall submit that information within 60 days of receiving a written or electronic request from the commission. For purposes of this paragraph, the reporting shall begin on January 1, 2008, and continue until the date that the regulations described in Section 71204.6 are adopted.

(2) (A) The information described in subdivision (f) shall be submitted using a form developed by the commission.

(B) The master, owner, operator, or person in charge of a vessel subject to this subdivision shall retain a copy of the form submitted pursuant to this subdivision on board the vessel for two years.

(f) The master, owner, operator, agent, or person in charge of a vessel subject to this division shall maintain, in written or electronic form, records that include the following information:

(1) (A) Date and location of drydocking events.

(B) Whether the vessel in general, and the submerged portion of the vessel, sea chests, anchors, and associated chains in particular, were cleaned during a drydocking event.

(2) Date and geographic location of all inwater cleaning of the submerged portion of the vessel.

(3) (A) Date and geographic location of all antifouling paint applications to the vessel.

(B) The manufacturer and brand name of the antifouling paint applied to the vessel.

(4) Any additional information required by the commission by rule or regulation.

(g) (1) The master, owner, operator, agent, or person in charge of a vessel subject to this division that has a ballast water treatment system installed on board that is used to comply with this division and has discharged ballast in waters of the state shall provide to the commission based on a schedule to be developed by the commission, by rule or regulation, in consultation with the advisory panel established in Section 71204.9 and the United States Coast Guard, the following information in electronic or written form:

(A) The manufacturer and product name of the ballast water treatment system on board the vessel.

(B) If applicable, the name and organization that has approved the ballast water treatment system and the approval or certification number of the ballast water treatment system technology.

(C) The number of tanks and the volume of each tank that is managed using the ballast water treatment system and that was discharged in waters of the state.

(D) Any additional information required by the commission by rule or regulation.

(2) The information required by paragraph (1) shall be provided on a form developed by the commission.

(h) The master, owner, operator, agent, or person in charge of a vessel subject to this division that has a ballast water treatment system installed on board that is used to comply with this division shall maintain on board the vessel, in written or electronic form, records, including, but not limited to, all of the following information:

(1) Copies of all reports and forms described in subdivision (g), submitted to the commission.

(2) Material safety data sheets for all chemicals utilized in conjunction with the ballast water treatment system.

(3) System manufacturer's technical guides, publications, and manuals.

(4) Ballast water treatment system performance information, which may be incorporated into the ballast log described in subdivision (d), and includes, at a minimum, all of the following information:

(A) The date, time, and location of the starting and stopping of the system for the purpose of treating ballast water.

(B) System malfunctions or unexpected situations, including problem resolution.

(C) Both scheduled and unscheduled maintenance of the system.

(D) All relevant measures of performance recorded during system operation.

(E) Any additional information required by the commission by rule or regulation.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2009

Governor